THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.4589 OF 2004

Dated: 2nd November, 2005.

Between:

Laxminivas Agarwal … Petitioner

And

1. The Commissioner of Police, Basheerbagh, Hyderabad.
2. The Deputy Commissioner of Police, Central Zone, Hyderabad.
3. The Station House Officer, Narayanaguda, Hyderabad.
4. Lata Jain, W/o. B.Kashinath, 37 years, Occ; Business, R/o.1-2-24/404, Domalguda, Venkata Kripa Apartments, Hyderabad. … Respondents

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WRIT PETITION NO.4589 OF 2004

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ORDER :

This writ petition is filed seeking a declaration that the action of the respondents 1 to

3 in not closing the FIRs registered against the petitioner as arbitrary and illegal.

The petitioner claims to be a permanent resident of Hyderabad belonging to a reputed family. On a complaint filed by the fourth respondent herein dated 22-4-2003 in the Police Station of Narayanaguda, Crime No.228 of 2003 was registered against the petitioner for the offences punishable under Sections 448, 506 & 509 of IPC. It appears that the petitioner was arrested and subsequently released on bail. It is alleged that the fourth respondent who was very influential, in collusion with the police, started filing a series of complaints, on the basis of which Cr.No.283/2003 on the file of P.S. Chikkadapally under Sections 448, 506 and 509 of IPC and Cr.No.270 of 2003 on the file of P.S. Abids under Section 354 of IPC and Cr.No.704/2003 on the file of P.S. Narayanaguda and Cr.No.719/2003 on the file of P.S. Narayanaguda have been registered. It is stated that he filed a private complaint before the IV-Metropolitan Magistrate, which was referred to P.S. Afzalgunz and it was registered as Cr.No.691/2003 for the offences punishable under Sections 425, 420 r/w. 120-B of IPC, which is still under investigation. The petitioner alleges that all the allegations in the complaints filed by the fourth respondent are totally false and without any basis. However, since the police officials are hand in glove with the fourth respondent, the petitioner is put to constant harassment and black-mailing. Hence, this writ petition.

The Sub-Inspector of Police, Narayanaguda P.S. filed a counter-affidavit on behalf of the respondents 1 to 3 stating that in Cr.No.228 of 2003 of Narayanaguda P.S. and Cr.No.283 of 2003 of Chikkadapally P.S., the investigation was already completed and charge-sheets were already filed, and the cases are pending trial in the competent court. So far as Cr.No.270/2003 of Abids P.S. is concerned, it is stated that the fourth respondent gave a complaint against the petitioner on 30-7-2003 at about 8.00 p.m. before the Abids P.S. stating that the petitioner outraged her modesty and abused her in filthy language and that he is threatening and harassing her. Basing on the abovesaid complaint, a case in Cr.No.270/2003 under Section 354 of IPC has been registered against the petitioner at Abids P.S. In the above said case, the petitioner was arrested and remanded to judicial custody and thereafter he was released on bail.

However, Cr.No.704 of 2003 of Narayanaguda P.S. which was registered on the basis of a private complaint made by the fourth respondent, before the XVII Metropolitan Magistrate, Hyderabad, the investigation has already been completed and the case was referred to the Court as 'undetected'. The allegations of the petitioner that all the complaints made by the fourth respondent are false and the same were made in collusion with the police officials have been categorically denied and it is explained as under :

> *"… … … basing on the written complaints given by the 4th respondent alone, cases have been registered against the petitioner herein strictly in accordance with the provisions of Criminal Jurisprudence. Further, the 4th respondent's office and residence are situated within the locality of the Central Zone. During the course of investigation, the police came to know that the petitioner is continuously calling the 4th respondent at her residence and office on several times personally and also by telephone, harassing, threatening the petitioner and her family members and also insisting the petitioner to take divorce from her husband and marry him. Further, investigation also revealed that the petitioner is making telephone calls to the 4th respondent at odd hours and also is making vulgur and indecent conversations with the fourth respondent and her family members. Hence, the contention of the petitioner that the fourth respondent using her influence colluding with the Central Zone Police, filing series of complains against him, is incorrect. The contention of the petitioner that the police are hand in glove with the 4th respondent is not correct. I submit that basing on the complaints given by the 4th respondent, the police have registered cases against the petitioner herein and so also on the complaints of the petitioner, the police have registered cases against the 4th respondent. Hence, the yielding to the pressures of the 4th respondent in collusion with the Central Police Zone and the 2nd respondent, is incorrect and baseless. It is a fact that the 4th respondent made some telephone calls to the police officials. Simply because the 4th respondent made some telephone calls to the police department, the petitioner cannot say that she has hand in glove with the police and colluding with the police. The 4th respondent may contact the police officials whenever she receives threatening call from the petitioner. The contention of the petitioner that he was arrested in two cases from his house and the police beat him all through the way and in the police station, is not correct. The petitioner represented before the Hon'ble Magistrate at the time of his production that he is not well and complained about his health. The petitioner never complained about*

any ill-treatment by the police before the Hon'ble Magistrate. It is fact that the petitioner filed a complaint before the National Human Rights Commission and the same has been referred to the Commissioner of Police, Hyderabad, the 1st respondent herein. Thereupon, the 1st respondent got enquired into the matter and found the allegations contained therein are totally false and incorrect. No third degree methods used against the petitioner herein and no rule or procedure has been violated in respect of the petitioner's arrest."

In the light of the averments in the counter-affidavit filed by the respondents and having regard to the undisputed fact that the investigation in the crimes registered against the petitioner have already been completed and the matters are pending trial before the competent Court, I am of the view that the interference of this Court under Article 226 of the Constitution of India is not at all warranted at this stage.

In the absence of any supporting material, the alleged connivance of the fourth respondent with the police officials cannot be taken as a ground to issue a writ of Mandamus compelling the respondents to close the crimes registered against the petitioner. That apart since, as noted above, the charge-sheets have already been filed before the Competent Court, the relief sought itself is superfluous and the writ petition is devoid of merit.

Accordingly, the Writ Petition is dismissed. No costs

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2nd November, 2005.

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